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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,003	08/20/2001	Anthony J. Baerlocher	0112300-722	7783
29159	7590	11/29/2006	EXAMINER	
BELL, BOYD & LLOYD LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			NGUYEN, DAT	
			ART UNIT	PAPER NUMBER
			3714	
DATE MAILED: 11/29/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/934,003

Applicant(s)

BAERLOCHER ET AL.

Examiner

Dat T. Nguyen

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02/21/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/07/2006</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the amendment filed on February 21, 2006 in which applicant amends claims 1,3, 12, 13, 30, 42, and 44-49 and responds to claim rejections. Claims 1-50 are pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughs-Baird (US 6,875,108) in view of The Price is Right. Hughs-Baird teaches a gaming device comprising:

- a display device
- an input device
- a plurality of player selectable positions displayable by the display device
- a processor operable with the display device and the input device to:
  - display the positions
  - enables a player to select the positions in an order
  - associates numbers with the positions based on the player's order of selection of the positions

- display said numbers in associating with said positions, wherein the numbers form a displayed value
- 3. Regarding claim 3, wherein the award is based on the order of at least three positions, wherein the numbers associated with two of said positions are combined by a mathematical operation (col. 6, lines 35-65).
- 4. Regarding claim 4, the processor determining how many positions the player is enabled to select (col. 5 lines 62-65 and col. 6, lines 1-22).
- 5. Regarding claim 5, 20 and 35, wherein the initial sequence includes a plurality of player selectable inputs and a number of positions associated with eat selectable input (abstract, col. 6, lines 23-65).
- 6. Regarding claim 6, 24 and 39, which includes a player selectable modify input which communicates with the processor, wherein activation of the modify input initiates an award modification method (Fig. 5a-d).
- 7. Regarding claim 7, 25, 29 and 40, the award modification method is one of: an award rearrangement method; an award regeneration method; adding a digit to the award; subtracting a digit from the award; and award multiplication method (Figs 4a-c and 5a-d).
- 8. Regarding claim 8, 9, 26, 27 and 41, which includes at least one award modification method, and wherein the processor randomly determines if one of the award modification methods will be applied to the award.

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9. Regarding claim 11, which includes a plurality of award modification methods, wherein the processor selects one of the award modification methods to apply to the award.
10. Regarding claim 17, includes a set of numbers stored in a memory device by the processor, wherein the processor randomly generates the masked numbers from the set of numbers in the memory device (col. 4, lines 41-59).
11. Regarding claim 19, at least two of the numbers of the set are the same (Fig. 7).
12. Regarding claim 21 and 36, wherein the initial sequence includes a plurality of player selectable inputs and a number of masked numbers associated with each selectable input.
13. Regarding claim 22 and 37, including a plurality of reels controlled by the processor, wherein said masked numbers are randomly generated by at least one of the reels (col. 3 lines 65-67 and col. 4, lines 1-10).
14. Regarding claim 23 and 38, including a player selectable keep input which communicates with the processor, wherein activation of the keep input by the player causes the processor to transfer the award provided to the player to a credit meter controlled by the processor (Fig 1a, feature 26).
15. Regarding claim 28, the processor makes a random determination when the player arranges one of the masked numbers.
16. Regarding claim 31, which includes 3 positions (col. 3, lines 65-67).
17. Regarding claim 32, wherein the award includes each of the selections by the display device (abstract, col. 6 lines 22-67).

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18. Regarding claim 33, the award includes a different number of selections than the plurality of selections displayed by the display device.

19. Regarding claim 34, the plurality of positions are displayed by the display device before the player associates the selections of the positions (Fig 4a).

20. Hugh-Baird fails to disclose the limitations of:

- Awarding a number of monetary units equal to the value displayed by the display device associated with the positions.
- Positions include at least a one's digit and a ten's digit for the award (Any Number and Side by Side).
- The displayed value is based on the order of the digits (Any Number, Side by Side).
- Enabling the player to arrange at least two of the masked numbers in the award positions (Any Number).
- Positions include at least a one's digit, a ten's digit, and a hundred's digit for the award (Any Number).
- The selection orderer includes a prompt to place a selection in a designated digit position (Switcheroo, Any Number)
- The selection orderer is adapted to enable the player to rearrange an ordering of the selections a plurality of times before pressing a keep button by the display device (Switcheroo, Flip Flop, Side by Side).
- Wherein the selection orderer enables the player to press and drag a selection to a digit position (Switcheroo, Any Number).

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- wherein the initial determination includes a plurality of player selectable inputs displayed by the display device, wherein a selection of a particular input provides a number of possible digits associated with the input (Any Number).
- Each of the numbers of the set are unique (Any Number).

However, The Price is Right, discloses the use of such features in a television game show. Hughs-Baird and The Price is Right disclose devices and methods for gaming which award players a prize based on making selections and determinations, therefore Hughs-Baird and The Price is Right are analogous. It would have been obvious to one of ordinary skill in the art at the time of invention to include the multiple selection and arrangement options of The Price is Right with the gaming device of Hughs-Baird in order to increase player involvement, interest, and excitement.

21. Hughs-Baird is silent regarding when the random determination is made, specifically after the player selects one of the positions as required by claim 10.

However, Examiner does not believe the order in which the random determination is made to be critical to novelty. Furthermore, it would be a matter of routine to one of ordinary skill in the art to program a device that make the random determination after the player selection. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to make the random determination after the player selects the positions.

***Response to Arguments***

Applicant's arguments with respect to claims 1-50 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

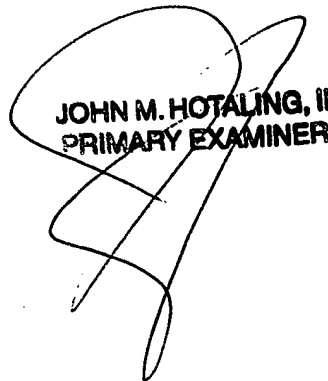
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dat T. Nguyen whose telephone number is 5712722178. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John M. Hotaling can be reached on (571)272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dat Nguyen

  
JOHN M. HOTALING, II  
PRIMARY EXAMINER